IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

-

WRIT PETITION NO : 8688 of 2004

Between:

Solasa Goverdhana, W/o Late Sri S.Mohan Rao,
R/o 13th Ward, Macherla, Guntur District.

..... PETITIONER

AND

1 Life Insurance Corporation of India, rep.by its Branch Manager,
Gurazala Branch, Gurazala, Guntur District.
2 S.Umamaheswara Rao, S/o Late Mohana Rao,
R/o 13th Ward, Macherla, Guntur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or orders more particularly one in the nature of Writ of Mandamus to declare the 1st respondent in not disbursing the amount due under policy No.62785251 and 671680007 to the nominee, i.e.the Petitioner herein illegal and contrary to Section 39(1) of the Insurance Act, 1938 and consequently direct the 1st respondent to pay the amount due under the above policies forthwith

For the Petitioner:MR.S.JAGADISH- Advocate

For the Respondent No.1 : MR.D.S.V.G.NAGARAJU

For the Respondent No. 2: -

The Court at the stage of admission made the Following :

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 8688 OF 2004

ORDER:

The present writ petition is filed questioning the action of the first respondent in not disbursing the amount due under policy No. 62785251 and 671680007 to the nominee/petitioner herein.

As per the averments made in the affidavit filed in support of the writ petition, the husband of petitioner insured with first respondent for a sum of Rs.1,00,000/- vide policy Nos. 62785251 and 671680007 (each for Rs.50,000/-) and mentioned the petitioner as nominee to receive the risk benefits, and died on 1-5-2003 leaving behind petitioner and two children. Pursuant to the death of her husband, petitioner approached the first respondent for payment of risk benefits. While so, the second respondent herein filed a suit in O.S.118 of 2003 for partition of suit schedule properties into 3 shares and claiming 1/3rd share in the risk benefits of the above stated policies, as legal heir of husband of the petitioner, together with an application for grant of interim injunction. No orders were passed in the interim application and the same is still pending consideration. The petitioner claims that she was declared as nominee to receive the risk benefits of the subject policies and as per section 39 (1) of the Insurance Act, 1938 the payments shall be made to

nominee in the event of death of the insured.

Learned counsel for petitioner submitted that the petitioner is legally entitled to receive the risk benefits of her husband and she was only declared as nominee to receive such benefits and in the absence of any restraint order from the competent court the first respondent cannot withhold the risk benefits. It is further stated that the second respondent is claiming only 1/3rd share in the said amount and there is no dispute as regards remaining 2/3rd amount, which could be immediately disbursed to the petitioner, enabling her to meet urgent necessities.

Heard the learned counsel for petitioner and learned standing counsel for first respondent corporation.

The dispute in the present writ petition relates to disbursement of monies under an insurance policy, and the matter is already seized of by the competent Civil Court. Whether the petitioner is the legal heir and nominee, and if so, to what amount she is entitled to under the insurance policy, are all disputed questions of fact, which cannot be gone into by this Court under Article 226 of the Constitution of India, and the remedy of the petitioner, if any, is to approach the competent civil Court, seek reliefs.

In the above circumstances, I see no reason to interfere in the matter. Accordingly, the writ petition is dismissed. No costs.

N.V.RAMANA,J

15-6-2004

TVK

To

1 The Branch Manager, Life Insurance Corporation of

India, Gurazala Branch, Gurazala, Guntur District.
2.. .2CCs to

3..2CD copies

*Form-NIC-OGS/WP{**VSR**}*